

Application No. 09/754,014  
Amendment Dated January 28, 2005  
Revision of Reply filed 08/18/04 to Office Action of 4/20/04

## **REMARKS/ARGUMENTS**

### **I. Amendments to the Specification:**

In response to objections to the prior form of amendments, the present revised amendment provides reference in the original specification for the location of the desired amendments and support for new claims. However, for the convenience of the Office and the Applicant, reference to amendments to the specification and support for new claims is also related to the paragraph numbering of the recent publication of the present application, US 2002/0119940 A1. Prior amendments of record made subsequent to publication are included in the text of amended claims.

Amendments have been made to replace the paragraph from page 29, line 31 through page 30, line 5, which is represented by paragraph [0083] of the application as published, in order to identify the Kozak sequence as in boldface and italics because the bold face of the application as filed did not show up on publication. Also errors are corrected to the identification of the overlined sites HindIII and NcoI.

Amendments have been made to replace the paragraph from page 31, line 29 through page 32, line 12, which is represented by paragraph [0090] of the application as published paragraph, in order to identify the depicted OPTIVS8 with a new SEQ ID NO:13 that is believed to more accurately describe the disclosed sequence which is clearly not contiguous but includes a relatively tract of bases that may be random sequence or may include specific sequences such as, for an example, restriction enzyme sites, between the 5' splice site and the branch point as disclosed in the paragraphs running from page 31, line 29 through page 34, line 19. paragraphs [0090 – 0096] as published.

Amendments have been made to replace the paragraphs from page 32, line 13 through line 23, which is represented by paragraph [0091] of the application as published, through the paragraph from page 33, line 25 through page 34, line 2, which is represented by paragraph [0094] of the application as published, in order to add SEQ IDs to the disclosed sequences in accordance with the Examiner's requirement that claimed sequences be identified with SEQ IDs. SEQ ID NO: 14 – 19 are added to most closely define the disclosed sequences.

The paragraph from page 32, line 24 through page 33, line 12, which is represented by paragraph [0092] of the application as published, is further amended to add back the underlining to the sequence YNYTRAY, which appeared to have been lost on publication.

A new sequence listing was submitted on the prior response dated 08/18/04 and has not been resubmitted here as the prior submission was not complained of. This listing adds new SEQ ID NO:13 – 19, which identify sequences explicitly set out in the text. It is believed that the amendments are fully

Application No. 09/754,014  
Amendment Dated January 28, 2005  
Revision of Reply filed 08/18/04 to Office Action of 4/20/04

supported by the specification as originally filed and that no new matter is added with the requested amendments.

## II. Amendments to the claims

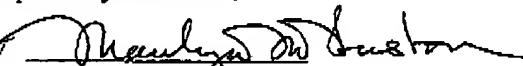
The prior Office Communication of which this is a revised reply merely correcting the technical form of the amendments to the specification, stated that the amendment filed 21 July 2003, although a *bona fide* reply, was not fully compliant with the provisions of revised 37 C.F.R. 1.121, because the amendment failed to account for the status of the claims 17 - 44 and 57 - 64. The Office Action further stated that Applicant should reply to the communication by filing a new claim listing according to the revised Rule 1.121 format, which clearly indicates the status of all claims pending during prosecution.

Accordingly, Applicant provides here a resubmission of a new listing of claims, which indicates the status of all claims pending during prosecution. In particular, claims 1 - 4, 6 - 9, 11 - 13, 15 - 49, and 56 - 64 are cancelled, and new claims 65 - 76 are added. Consideration of new amendments and an amended sequence listing, believed to place the application in condition for allowance, is respectfully requested. Claims 5, 10, 14, 50 - 55, and 65 - 76 are pending in the application.

### Conclusion


The Commissioner is authorized to charge any additional fees incurred in this application or credit any overpayment to Deposit Account No. 50-1922. Should the Examiner have any questions, please do not hesitate to call Applicant's attorney at 832-446-2421.

Respectfully submitted,

By   
Marilyn M. Huston  
Reg. No. 37,851  
Wong, Cabello, Lutsch, Rutherford & Brucculeri, L.L.P.  
20333 SH 249, Suite 600  
Houston, TX 77070  
(832) 446-2421

### CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document is being transmitted by facsimile to the USPTO Central Facsimile Number (703) 872-9306, according to 37 CFR § 1.6 (d) on January 28, 2005.

  
Marilyn M. Huston